

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION - CLEVELAND**

In re	Case No. 19-17163
Ted A. Bryant Susan J. Bryant	Chapter 7
Debtors	Judge: JESSICA E. PRICE SMITH <u>AMENDED MOTION OF NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER FOR RELIEF FROM STAY/ 1011 S BELVOIR BLVD, SOUTH EUCLID, OH 44121</u>

Nationstar Mortgage LLC d/b/a Mr. Cooper, (the "Movant") moves this Court, under Bankruptcy Code §§ 361, 362 and 363 and other sections of Title 11 of the United States Code, and under Federal Rules of Bankruptcy Procedure 4001 and 6007 and under Local Bankruptcy Rule 4001-01 for an order conditioning, modifying or dissolving the automatic stay imposed by Bankruptcy Code § 362.

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this motion is proper under 28 U.S.C. §§ 1408 and 1409.

2. On May 9, 2013, the Debtors obtained a loan from Citibank, N.A. in the amount of \$143,132.00. Such loan was evidenced by a Note dated May 9, 2013, a copy of which is attached as Exhibit A.

3. To secure payment of the Note and performance of the other terms contained in it, the Debtors executed a Security Agreement in favor of Mortgage Electronic Registration Systems, Inc., as nominee for Citibank, N.A dated May 9, 2013 (the "Security Agreement"). The Security Agreement granted a lien on the real property located at 1011 S Belvoir Blvd, South Euclid, OH 44121 owned by the Debtors (the "Collateral"). The Collateral is more fully described in the Security Agreement (check one):

attached as Exhibit B :

OR

contained in the Note, attached as Exhibit A -

4. The lien created by the Security Agreement was duly perfected by:

Filing of the Security Agreement in the office of the Cuyahoga County Office of Fiscal Officer on May 20, 2013 -

Filing of the UCC-1 Financing Statement in the office of _____ on _____.

Notation of the lien on the Certificate of Title.

Other (state with particularity) _____.

A copy of the recorded Security Agreement, UCC-1 Financing Statement, Certificate of Title or other document, as applicable, is attached as Exhibit B. Based on Debtors' Schedule D, the lien is the 1st lien on the Collateral.

5. The entity in possession of the original Note as of the date of this motion, is Nationstar Mortgage LLC d/b/a Mr. Cooper, 8950 Cypress Waters Blvd., Coppell, TX 75019.

6. The entity servicing the loan is: Nationstar Mortgage LLC d/b/a Mr. Cooper, 8950 Cypress Waters Blvd., Coppell, TX 75019. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay, foreclose, approve short sale or execute a Deed in Lieu if necessary.

7. The Note was transferred, as evidenced by the following:

a. If the collateral is real estate:

i. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the original lender:

N/A.

OR

By endorsement on the Note,
payable to _____.

OR

By blank endorsement on the Note. Movant is entitled to enforce the Note pursuant to O.R.C. § 1303.31 because it is in possession of the Note and therefore is the holder of the Note.

OR

By allonge attached to the Note,
payable to _____.

OR

By blank allonge, attached to the Note.

OR

The Note is not endorsed to the Movant, or is not endorsed in blank with an allegation that the Movant is in possession of the original Note. The factual and legal basis upon which the Movant is entitled to bring this motion is (explain with particularity and attach supporting documentation):

OR

By endorsement on the Note or by allonge attached to the Note, through a power of attorney. If this box is checked, a copy of the power of attorney is attached as Exhibit <__>. Explain why it provides Movant the authority to endorse the Note:

_____.

- ii. Under Uniform Commercial code § 3-203(a) as applicable under state law in effect where the property is located, from the <FIRST TRANSFeree to <____>[ADD ADDITIONAL TRANSFER SECTIONS AS APPROPRIATE. THE LAST TRANSFeree MUST BE THE MOVANT].
- iii. A court has already determined that Movant has the ability to enforce the Note with judgment dated <INSERT DATE OF JUDGMENT> in the <INSERT NAME OF COURT>. A copy of the judgment is attached at Exhibit <__>.
- iv. Other _____ [explain].

b. If the Collateral is not real estate (check one):

N/A.

OR

From the original lender to <FIRST TRANSFeree> by <STATE METHOD OR DOCUMENT EFFECTING TRANSFER> [ADD ADDITIONAL TRANSFER SECTIONS AS APPROPRIATE. THE LAST TRANSFeree MUST BE THE MOVANT.]

8. The Security Agreement was transferred as follows (check one):

N/A.

OR

From the original lender, mortgagee, or mortgagee's nominee on December 6, 2019 to Movant. The transfer is evidenced by the document(s) attached to this Motion as Exhibit C.

9. The value of the Collateral is \$83,500.00. This valuation is based on the Cuyahoga County Fiscal Officer's Appraisal of the entire parcel.

10. As of the date of this Motion, there is currently due and owing on the Note the outstanding principal balance of \$125,593.22, plus interest accruing thereon at the rate of 4.00% per annum [\$13.76 PER DAY] from September 1, 2019, as described in more detail on the worksheet. The total provided in this paragraph cannot be relied upon as a payoff quotation.

11. The amount due and owing on the Note as set forth in paragraph 10 DOES include a credit for the sum held in a suspense account by the Movant. The amount of the credit is \$34.17.

12. Other parties known to have an interest in the Collateral besides the Debtors, the Movant, and the trustee are (check all that apply):

N/A.

The <COUNTY> County Treasurer, for real estate taxes, in the amount of \$<AMOUNT>.

<CO-OWNERS, IF APPLICABLE, STATE NAME>.

<AND OTHER PARTY HOLDING A LIEN, IF APPLICABLE, IN THE AMOUNT OF \$_____ [ADD ADDITIONAL PARTIES AS APPROPRIATE]>.

13. The Movant is entitled to relief from the automatic stay under § 362(d) for these reason(s) (check all that apply):

Debtor has failed to provide adequate protection for the lien held by the Movant for these reasons:

Debtor has failed to keep the Collateral insured as required by the Security Agreement.

Debtor has failed to keep current the real estate taxes owed on the Collateral.

Debtors have failed to make periodic payments to Movant for the months of October 2019 through December 2019 which unpaid payments are in the aggregate amount of \$3,000.84 through December 18, 2019. The total provided in this paragraph cannot be relied upon as a reinstatement quotation.

Debtors have no equity in the Collateral, because the Collateral is valued at <AMOUNT>, and including the Movant's lien, there are liens in an aggregate amount of <AMOUNT> on the Collateral.

Other cause (set forth with specificity):_____

14. Movant has completed the worksheet attached as Exhibit "D".

WHEREFORE, Movant prays for an Order from the Court granting Movant relief from the automatic stay of Bankruptcy Code § 362 to permit Movant to proceed under applicable nonbankruptcy law.

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Respectfully submitted,

/s/ Phyllis A. Ulrich

Carlisle, McNellie, Rini, Kramer & Ulrich
Co., L.P.A.

By: Phyllis A. Ulrich (0055291)
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Attorneys for Movant:
Nationstar Mortgage LLC d/b/a Mr. Cooper

CERTIFICATE OF SERVICE

I certify that on January 15, 2020, a true and correct copy of Nationstar Mortgage LLC d/b/a Mr. Cooper's Amended Motion for Relief from Stay was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Debra E. Booher, on behalf of Ted A. Bryant and Susan J. Bryant, debtors, at
charlotte@bankruptcyinfo.com
Virgil E. Brown, Jr., on behalf of the Chapter 7 Trustee's office, at virgil@vebtrustee.com
Office of the United States Trustee, at (registered address)@usdoj.gov

And by regular U.S. Mail, postage paid, on:

Ted A. Bryant and Susan J. Bryant, Debtors, 1011 S. Belvoir Boulevard, South Euclid, OH 44121
Synchrony Bank, c/o PRA Receivables Management, LLC, PO Box 41021, Norfolk, VA 23541

/s/ *Phyllis A. Ulrich*
Carlisle, McNellie, Rini, Kramer & Ulrich
Co., L.P.A.
By: Phyllis A. Ulrich
Christopher P. Kennedy